IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1289 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

LALJIPUR GROUP SEVA SAHKARI MANDALI LIMITED

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 1289 of 2004

MR HARIN P RAVAL for Petitioner No. 1-2

MR DIPEN DESAI, AGP for Respondent No. 1-4

MR SK PATEL for Respondent No. 5

NOTICE SERVED BY DS for Respondent No. 6

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 14/09/2004

ORAL JUDGEMENT

Rule. Shri Dipen Desai, Ld. AGP waives service

of rule on behalf of the respondent nos.1 to 4. Mr.S.K.Patel, Learned Advocate waives service of rule on behalf of the respondent no.5 and 6. With the consent of the parties, the matter is taken up for final hearing today.

2. In this petition under Articles 226 and 227 of the Constitution of India, the petitioner has challenged the legality and validity of the order passed by the District Registrar, Cooperative Societies, Sabarkantha dated 28.1.2004 and also the order passed by the Appellate Authority in not deciding the stay application and also the order passed by the Revisional Authority dated 29.1.2004 in not entertaining the revision application as the appeal is pending. Being aggrieved and dissatisfied with the order passed by the District Registrar dated 28.1.2004, the petitioner had preferred appeal before the Additional Registrar (Appeals), Cooperative Societies, State of Gujarat being Appeal No.19 of 2004 and in the said appeal, the petitioner had also submitted an application for stay. The Appellate Authority by order dated 29.1.2004 issued notice only and did not grant any interim relief. Being aggrieved and dissatisfied with the same, the petitioner preferred revision application before the State Government. The State Government did not entertain the revision application on the ground that the appeal as well as the stay application is pending before the Appellate Authority. Being aggrieved and dissatisfied by the same, the petitioner has preferred the present Special Civil Application and while issuing notice, an interim order (Coram: K.M.Mehta, J) was passed on 30.1.2004 staying the further implementation and operation of the order passed by the District Registrar, Cooperative Societies, Sabarkantha dated 28.1.2004 and the said interim relief is in operation till date.

3. In view of the fact that the order passed by the District Registrar, Cooperative Societies, Sabarkantha dated 28.1.2004 is the subject matter of appeal before the Appellate Authority being Appeal No.91 of 2004, therefore, the present Special Civil Application challenging the order passed by the District Registrar, Cooperative Societies, Sabarkantha is not entertained. However, in view of the fact that this Court has granted interim relief staying the implementation and operation of the order passed by the District Registrar, Cooperative Societies, Sabarkantha dated 28.1.2004 and the same is in operation till date, it will be in the fitness of things to direct the Appellate Authority to decide and dispose of the application for stay submitted

by the petitioner in Appeal No.91 of 2004 as early as possible preferably within a period of eight (8) weeks from today. Accordingly, the respondent no.3 is directed to decide and dispose of the stay application submitted in Appeal No.91 of 2004 in which the petitioner has challenged the legality and validity of the order passed by the District Registrar, Cooperative Societies, Sabarkantha dated 28.1.2004 on merits and in accordance with law within a period of eight (8) weeks from today without in any way being influenced by the fact that this Court has continued the adinterim relief granted earlier. Rule is made absolute to the above extent with no order as to costs.

(M.R.Shah, J)
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